

1 HON. JAMES L. ROBART
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9 UNITED STATES DISTRICT COURT
10 WESTERN DISTRICT OF WASHINGTON
11 AT SEATTLE

12 SHU CHEN,

13 Plaintiff

14 v.

15 LINCOLN NATIONAL LIFE
16 INSURANCE COMPANY,

17 Defendant.

18 No. 2:20-cv-01766-JLR

19 STIPULATED MOTION FOR LEAVE TO
20 FILE “ADMINISTRATIVE RECORD”
21 UNDER SEAL AND [PROPOSED] ORDER

22 **NOTED FOR HEARING: April 29, 2021**

23 **I. Relief Requested**

24 The parties respectfully move the Court, pursuant to Federal Rule of Civil Procedure
25 5.2(d) and Local Civil Rule 5(g), to order that the “Administrative Record” in this matter – the
26 defendant insurance company’s claim file – be filed under seal, without redactions.

27 **II. Relevant Facts and Legal Authority**

This action arises under the Employee Retirement Income Security Act of 1974 (ERISA),
29 U.S.C. § 1001 *et seq.* The parties agree the Court will need to consider Defendant’s claim file
to resolve the matter. Such files have come to be called the “Administrative Record” in ERISA

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RECORD” UNDER SEAL AND [PROPOSED] ORDER - 1

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benefit cases. Here, that 2,225-page file is primarily medical records and other documents addressing Plaintiff's medical conditions.

Although Local Civil Rule 5(g) establishes a strong presumption in favor of public access to court filings, the need to protect medical privacy qualifies as a “compelling reason” to allow records to be filed under seal. *Karpenski v. Am. Gen. Life Companies, LLC*, No. 2:12-CV-01569-RSM, 2013 WL 5588312 at *1 (W.D. Wash. Oct. 9, 2013) (citing *Kamakana v. City and County of Honolulu*, 447 F.3d 1172, 1179 (9th Cir. 2006)). See also *Macon v. United Parcel Serv., Inc.*, 2013 WL 951013, at *5 (W.D. Wash. Mar. 12, 2013) (granting unopposed motion to seal medical records given the “private nature of the documents at issue”); *Gary v. Unum Life Ins. Co. of Am.*, No. 3:17-CV-01414-HZ, 2018 WL 1811470, at *3 (D. Or. Apr. 17, 2018) (granting an opposed motion to seal an ERISA claim file, citing numerous cases and stating “[t]he parties have not presented, and the Court is not aware of, any cases where medical information was not allowed to be filed under seal under the ‘compelling reasons’ standard.”).

Local Civil Rule 5.2(c) states that “in an action for benefits under the Social Security Act” the “administrative record must be filed under seal” because those “actions are entitled to special treatment due to the prevalence of sensitive information and the volume of filings.” *Id.* That reasoning applies to this action for ERISA disability benefits. Sensitive information concerning the Plaintiff is found throughout the claim file.

As certified below, the parties discussed whether redaction would be a suitable alternative. Due to the volume of the record, and the extensive redaction that would be necessary, the parties believe redaction is not a reasonable alternative. Federal Rule of Civil Procedure 5(d) provides that the “court may order that a filing be made under seal without redaction” and the parties respectfully move the Court to so order here.

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III. Local Rule 5.2(g)(3)(A) Certification

The parties certify pursuant to Local Rule 5.2(g)(3)(A) that attorney Mel Crawford representing Plaintiff and attorney Russel Buhite representing Defendant conferred by telephone on April 26, 2021, to discuss filing the record under seal and to explore redaction and other alternatives to filing under seal. They agreed redaction was not a reasonable means to protect Plaintiff's medical privacy, because the documents would need to be so heavily redacted.

IV. Conclusion

The parties respectfully move the Court to order that the “Administrative Record” in this matter be filed under seal.

IT IS SO STIPULATED THIS 29th day of April 2020.

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By s/Russell S. Buhite
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Attorney for Defendant

ORDER

IT IS SO ORDERED. The Court GRANTS the parties' stipulated motion and ORDERS that the administrative record in this action be filed and maintained under seal. Pursuant to Federal Rule of Civil Procedure 5(d), the record need not be redacted.

DATED this 2 day of May 2021.

Honorable James L. Robart
United States District Judge

STIPULATED MOTION TO FILE "ADMINISTRATIVE RECORD" UNDER SEAL AND [PROPOSED] ORDER - 4

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